

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

STEVEN DALE PERCELLE,
Plaintiff,
v.
STATE OF CALIFORNIA,
Defendant.

Case No. 14-cv-03881-TEH

**ORDER DENYING PLAINTIFF'S EX
PARTE MOTION TO TAKE
DEPOSITION**

On September 11, 2014, Plaintiff filed a motion for leave to take a deposition of Willie Johnson pursuant to Federal Rule of Civil Procedure 30(a)(2)(B). Mot. at 1 (Docket No. 9). Plaintiff labeled the motion an “*ex parte*” motion and asserted that it was filed under Civil Local Rule 7-10. *Id.* at 4. Having reviewed the parties’ papers in support and opposition of the motion, and considering statements made during the Case Management Conference held September 15, 2014, the Court DENIES Plaintiff’s motion without prejudice.

An *ex parte* motion is a motion for which notice is not provided to opposing parties. Civ. L.R. 7-10. A party filing such a motion must include a citation to the source of authority permitting an *ex parte* motion to be used for the relief sought. *Id.* Plaintiff here both provided notice of this motion to Defendant and failed to identify any source of authority for using an *ex parte* motion for the relief sought. *See* Mot. Plaintiff’s counsel stated at the Case Management Conference that he filed the motion in this manner because an anonymous clerk at the courthouse told him that an *ex parte* motion was closest to what he was trying to accomplish. It is not sufficient to rely on such advice.


Plaintiff has been warned in the related case that violations of the Local Rules will not be tolerated, and may result in summary denial of related motions. *Percelle v. Pearson*, No. 14-cv-3881-TEH, 2014 WL 4416075 at *2 (N.D. Cal. Sept. 8, 2014).

1 Plaintiff is hereby instructed that he must adhere to the requirements of the Local Rules to
2 the letter.

3 For the reasons stated above, Plaintiff's motion is DENIED without prejudice.
4

5 **IT IS SO ORDERED.**

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7 Dated: 09/17/2014



THELTON E. HENDERSON
United States District Judge

United States District Court
Northern District of California